



COMMUNITY & PUBLIC SECTOR UNION ♦ SPSF GROUP NSW BRANCH

160 Clarence Street, Sydney NSW
Email: membersupport@psa.asn.au
Federal Secretary: Karen Batt

GPO Box 3365, Sydney NSW 2001
Internet: <http://www.psa.asn.au>

Phone: 1300 772 679 Fax: (02) 9262 1623
ABN: 11 681 811 732

IN REPLY PLEASE
QUOTE FILE NUMBER
BS: : A16/0772

15 November 2016

Jon Black
Managing Director
TAFE Commission of NSW
PO Box 707
BROADWAY NSW 2007

By email: jon.black@tafensw.edu.au

Dear Jon Black

Re: Implementation of TAFE Commission of NSW Administrative, Support and Related Employees Enterprise Agreement 2016

The Community and Public Sector Union (CPSU) notes that TAFE NSW have commenced the road show to educate employees and managers on the changes to the classifications and conditions in the new TAFE Commission of NSW Administrative, Support and Related Employees Enterprise Agreement 2016 (the Agreement).

The CPSU had earlier requested verbally to see copies of the materials prior to distribution to ensure that both the employer and the Union were in agreement on what employees and managers were being informed about. The Union understood that this was acceptable to TAFE NSW however the consultation did not actually occur.

As expected there are issues with the Fact Sheets, Guide and Presentation.

Overtime

The Factsheet relating to "Flex workers" says on page two;

"Directed overtime will only be paid for full-time employees after 35 hours in a week have been worked" and;

The Factsheet "Guide for Managers" says on page two;

"Overtime rates will only be paid for directed overtime after 35 hours in a week have been worked" and;

The Presentation says on page 13;

"Full time employees will only be paid for directed overtime after 10 hours on a day or 35 hours in a week have been worked".

These statements are misleading with the final statement factually incorrect. The new system of overtime that was negotiated is best reflected in an email to CPSU Delegate and Bargaining Team Member Christopher Hobbins sent by Graeme Knott, which says:

From: Knott, Graeme
Sent: Monday, 20 June 2016 3:19 PM
To: Hobbins, Christopher
Subject: FW: overtime question on new EB

Hi Christopher

Paul asked me to respond to you regarding your questions. I had one of the team in Sydney confirm these details and they provided me with one answer that covers all of your questions:

Whilst the ordinary hours of work for an employee (covered by this agreement) is 35 hours per week (clause 41.1), the pattern of which may be flexibly arranged across the week within the daily span of hours, or as negotiated under a local arrangement.

If the arrangement is for an employee to regularly work a seven (7) hour day and the employee is 'directed' to work beyond that time; overtime will be paid. The appropriate overtime rates are those contained in clause 51.2.1 of the agreement.

Graeme Knott

People Capability and Culture Adviser

This has been reflected in the Factsheet – “Flex workers” on page two by the following paragraphs:

Flex Time vs Overtime

Overtime occurs where an employee is 'directed' by their manager to work more hours than their agreed ordinary working hours.

For example: An employee is working agreed ordinary hours of seven per day, and their manager directs them to remain at work for an additional two hours to complete a specific work task, that is deemed to be overtime.

In contrast, if an employee asks their manager for approval to remain at work for an additional hour, to complete a task; this does NOT qualify as overtime. Rather the employee is accruing Flex Time.

During the first presentation to employees, the presenter was asked about how overtime would operate, and if overtime was paid on work directed after 7 hours if the normal hours for an employee was 7 hours a day. The presenter was adamant in asserting that overtime would not occur until after 10 hours in any one day, beyond 35 hours in any one week or outside the bandwidth.

A key aspect of the negotiations for the new Enterprise Agreement was the removal of the link between overtime and the bandwidth. This was the only way that the CPSU would accept the expanded bandwidth as proposed by TAFE NSW.

This separation was accepted by the bargaining team for TAFE NSW and is most accurately reflected in the factsheet titled "Flex Time vs Overtime" and the email from Graeme Knott to one of the CPSU Delegates.

The information presented in the remaining materials for TAFE NSW employees, as well as the information provided by the presenters who are providing the education to employees and managers, is not accurate, misrepresents the conditions of employment as negotiated between the CPSU and TAFE NSW, and misleads employees and managers regarding the management of hours of work from January 2017 onwards.

For this reason, the CPSU had requested that we review the materials prior to distribution to ensure that what is presented to employees is accurate, and reflects the jointly accepted provisions in the enterprise agreement, with any confusion around interpretation resolved prior to publication.

If there are other matters of concern in materials and presentations provided the CPSU will be in touch with your Manager, Industrial Relations.

Yours sincerely,



Blake Stephens
A/Senior Industrial Advocate